

Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

I. Claim Rejections - 35 USC § 102

Claims 1-3, 7-10, 14-20 and 23-29 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent application No. 2004/0259533 to *Nixon et al.* (hereinafter *Nixon*). Withdrawal of the rejection is respectfully requested for at least the following reasons.

A. Claims 1, 9 and 14

Independent claim 1 recites a method of doing business in connection with the sale of mobile devices, wherein the mobile devices are self or automatically configured. As discussed in the specification, mobile devices can be communication devices that roam from cell to cell, such as data terminals, telephones, pagers etc.¹ *Nixon* is not concerned with automatic configuration of mobile devices, as discussed below. However, to further clarify that the invention of claim 1 pertains to mobile devices that can roam from cell to cell, claim 1 has been amended to recite that each mobile device is operable to maintain a communication link as the mobile device roams between communication cells.

Nixon discloses a self-configuring communications network for use with process control systems. More specifically, field devices are configured to enable automatic or self configuration. As is well known by those skilled in the art of control systems, a field device is a term of art for a remotely located sensor or actuator. Further, *Nixon* even provides exemplary field devices that are consistent with this definition. See, for example, page 1, paragraph 4 of *Nixon*, wherein it is stated that field devices are devices such as input devices (e.g., devices such as sensors that provide status signals that are indicative of process control parameters such as temperature, pressure, flow rate, etc.), as well as control operators or actuators that perform actions in response to commands received from controllers and/or other field devices.

¹ See, e.g., page 6, lines 16 of the application.

Such field devices are not mobile in the sense that they can roam from cell to cell while maintaining a communication link. Instead, such devices, once installed within a control system, remain in a fixed position indefinitely.²

Accordingly, *Nixon* does not teach or suggest a system that includes a self configuring mobile device that is operable to maintain a communication link as the mobile device roams between communication cells. Thus, *Nixon* does not anticipate claim 1. Similar arguments apply to independent claims 9 and 14.

Accordingly, withdrawal of the rejection of claims 1, 9 and 14 is respectfully requested.

B. Claims 2, 3, 7, 8, 10, 15-20 and 23-29

Claims 2, 3, 7, 8, 10, 15-20 and 23-29 depend from one of the above claims and, therefore, can be distinguished from *Nixon* for at least the same reasons.

1. Claims 7 and 8

Further, claim 7 recites that the mobile device is manually configured in the event of failure of the automatic configuration. Claim 8 recites that manually configuring the mobile device includes creating encrypted data, wherein the encrypted data includes a time/date window. The Examiner contends that *Nixon* teaches these features, and cites to page 3, paragraph [0028], and page 6, paragraphs [0046] and [0047] in support of the rejection.

Referring to paragraph [0028], only automatic or self configuration is discussed with respect to the field devices. "Self configuration", in the context of paragraph [0028], is another way of expressing that the field devices configure themselves without the need for user intervention. There is no teaching or suggestion of manually configuring the field devices in paragraph [0028].

Paragraph [0046] describes specifying fixed communication parameters for the system 100. Paragraph [0046], however, does not teach or suggest manually configuring the field devices 102-118.

² While *Nixon* does disclose the use of mobile phones, pagers, etc. in conjunction with the field devices, the mobile phones, pagers, etc. are merely used to send and receive data to the field devices, and are not automatically configured or configurable (see, e.g., page 9, paragraph [0067]).

Further, paragraph [0047] of *Nixon* discloses that communications with the field device can be via secured communications. However, there is no teaching or suggestion in paragraph [0047] of manually configuring the field device, as recited in claim 7. Moreover, there is no teaching or suggestion of including a time/date window in the encrypted data, as recited in claim 8.

Accordingly, *Nixon* does not anticipate claims 7 and 8.

2. Claims 15-17

Claim 15 further recites that the mobile device includes a user input module. Claim 16 recites that the user input module is a keypad, while claim 17 recites that the user input module is a bar code reader. The Examiner contends that *Nixon* teaches these features, and cites to page 10, paragraph [0075] of *Nixon*.

The cited portion of *Nixon* discusses replacement of a field device in the event of failure. *Nixon* does disclose that an operator may confirm the replacement with a maintenance person and then accept the request to replace at the workstation 402.³ However, there is no indication that a user can input data at the field device 422 (it is noted that the field device 422 is a separate and distinct device from the workstation 402). Further, the cited portion of *Nixon* does not teach or suggest that the field device includes a user input device that comprises a keypad, as recited in claim 16, or a bar code reader as recited in claim 17. Accordingly, *Nixon* does not anticipate claims 15-17.

Accordingly, withdrawal of the rejection of claims 2, 3, 7, 8, 10, 15-20 and 23-29 is respectfully requested.

II. Claim Rejections - 35 USC § 103

Claims 4-6, 11-13 and 21-22 stand rejected under 35 USC §103(a) as being unpatentable over *Nixon* in view of U.S. Patent Publication No. 2004/0137890 to *Kalke*. Withdrawal of the rejection is respectfully requested for at least the following reasons.

Kalke was filed on October 31, 2003, which is after the filing date of the present application (October 17, 2003). However, *Kalke* claims priority to Provisional Application No. 60/423,224, which was filed on November 1, 2002. The provisional application appears to be several instruction manuals and/or presentations combined

³ See page 10, paragraph 75, bottom of first column of *Nixon*.

into a single document, and is in a format that is substantially different from the published application. Applicants respectfully request that the Examiner identify the portions in the provisional application that support the rejections as detailed on pages 9-10 of the Office Action.

Moreover, even if the portions relied upon in *Kalke* are supported in the provisional application, *Kalke* has not been shown to make up for the above-discussed deficiencies of *Nixon* with respect to claims 1, 9 and 14 (Section 1A above). Thus, claims 1, 9 and 14 are distinguishable over the combination of *Nixon* and *Kalke*. Since claims 4-6, 11-13 and 21-22 depend from either claim 1, 9 or 14, they can be distinguished over *Nixon* and *Kalke* for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 4-6, 11-13 and 21-22 is respectfully requested.

III. New Claims

New claims 30-31 are submitted for favorable examination in view of the forgoing comments regarding the applied references.

IV. Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By 
Kenneth W. Fafrak, Reg. No. 50,689

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113



Serial No. 10/688,316

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Christine Arndt
Christine Arndt

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